

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arthur Albano	Team: Squad #4	CCRB Case #: 201504129	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/19/2015 6:46 PM	Location of Incident: 110th Avenue and 172nd Street	Precinct: 103	18 Mo. SOL 11/19/2016	EO SOL 11/19/2016	
Date/Time CV Reported Fri, 05/22/2015 1:42 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/22/2015 1:42 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Jordan	09041	941973	113 PCT
2. POM Dennis Jaeger	09389	940297	113 PCT
3. POM Joel Diaz	25278	946466	113 PCT
4. Officers			113 PCT
5. An officer			113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Boyle	17906	946802	113 PCT
2. POM Andrew Austen	14192	956401	113 PCT
3. POM Peter Rohme	14457	957098	113 PCT
4. POM Yevgeniy Zaytsev	12848	949825	113 PCT
5. SGT Terence McCabe	03251	940387	113 PCT
6. POM John Marcantonio	08417	937020	113 PCT
7. SGT John McCormick	02305	879122	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Jordan	Force: PO Eric Jordan pointed his gun at § 87(2)(b)	
B.POM Dennis Jaeger	Force: PO Dennis Jaeger pointed his gun at § 87(2)(b)	
C.POM Eric Jordan	Abuse: PO Eric Jordan stopped § 87(2)(b)	
D.POM Dennis Jaeger	Abuse: PO Dennis Jaeger stopped § 87(2)(b)	
E. Officers	Force: Officers pointed their guns at § 87(2)(b)	
F. Officers	Abuse: Officers stopped § 87(2)(b)	
G. An officer	Abuse: An officer searched § 87(2)(b) s bag.	
H. An officer	Abuse: An officer searched § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On May 19, 2015, at 6:39 p.m. an anonymous caller reported a man with a firearm walking on Merrick Boulevard, towards 110th Avenue, in Queens. The location borders the 103 and 113th Precincts in the middle of the street.

At approximately 6:45 p.m., § 87(2)(b) was walking eastbound on 110th Avenue (Brinkerhoff Avenue) and when he approached the intersection of 110th Avenue and 172nd Street. Four or five officers from the 113th Precinct, two of which were identified to be PO Eric Jordan and PO Dennis Jaeger of the 113th Precinct pointed their guns and stopped § 87(2)(b) (Allegations A through F).

An officer allegedly searched § 87(2)(b)'s pockets and bag, with negative results (Allegations G and H). § 87(2)(b) was then released, without a summons or arrest.

§ 87(2)(b) also alleged that \$40 was missing from his pockets after he was searched by the officers, which was referred to IAB under case #§ 87(2)(b)

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- A spin-off complaint was made to the Internal Affairs Bureau (IAB) in regards to the missing money rendering this case was unsuitable for mediation.
- A notice of claim of inquiry was sent to the New York City's comptroller's office on October 22, 2015. A response to this request will be included in the case file upon its receipt.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- § 87(2)(b) has filed three prior complaints with the CCRB: § 87(2)(b)
- PO Jordan has been a member of the service for 9 years and this is the first CCRB complaint filed against him.
- PO Jaeger has been a member of the service for 9 years and there are no substantiated CCRB allegations against him.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) reported the incident by phone to the CCRB three days after the incident. He identified three marked vehicles as arriving to the scene and a total of five officers being present in uniform. He was solely able to describe two officers fully, could not provide any descriptions for two of the officers that were responsible for the search of his person and of his bag and the last officer he solely described as a male with dark spiky hair. At that time, he also provided the marked vehicle's number.

§ 87(2)(b) was interviewed at the CCRB 17 days after the incident. At this time, he solely identified two marked vehicles as responding to the scene, identified only four officers at the scene and provided descriptions of all four officers, which he was unable to do three days after the incident. Furthermore, he noted that one of the officers that pointed a gun at him held a silver

revolver, (revolvers have not been issued to the NYPD since 1994) and identified another officer, by name, as PO Jordan. § 87(2)(b) identified two officers as being the subjects of the search of his person and search of his bag. He indicated that they were positioned behind him and he did not observe them to well to describe them.

The Event Records for this incident (Board Review 02) listed Sector A of the 113th Precinct, as having one male stopped at the incident location. According to the roll call, PO Eric Jordan and PO Dennis Jaeger were assigned to this Sector and they were assigned to the vehicle which § 87(2)(b) identified. Both officers confirmed that they were assigned to Sector A and remained together for the entirety of the tour. § 87(2)(g)

Neither PO Jordan nor PO Jaeger could identify the remaining two or three officers that responded to this incident. The Event summary listed three additional sectors responding to the gun run, sector K, which included PO Andrew Austen, PO Michael Boyle, and PO Rohme, sector H which included PO Minh Hoang and PO Peter Ahn and sector E, included PO Joel Diaz, and PO Yevgeniy Zaytsev. Only Sector A is listed as having one individual stopped and no supervisors are listed as responding to the scene.

Other than PO Jordan, § 87(2)(b)'s descriptions included a 250-lb white man with spiked black hair, a muscular build, in his late thirties who held the revolver, a 250-lb white man with black short spiked hair, a muscular build and stubble, subject of the search, and a white man with a bullet proof vest. None of the officers from Sector E or Sector K weigh more than 200-lbs and none of them have spiked hair. Other than PO Diaz all of the officers are white men. Additionally, PO Hoang and PO Ahn are both Asian males and do not match the descriptions at all. A review of the roll call revealed only one officer who was confirmed by interview to have a silver revolver, Sgt. John McCormick. However, he not only did not match the description since he has white/gray hair, but documentation confirmed that he on duty at the 113th Precinct as the desk supervisor at the time of the incident.

Due to § 87(2)(b)'s inconsistent descriptions and number of officers that responded to his stop, a photo array was presented to him on October 8, 2015. Ten officer photographs were presented that included all the officers discussed above (with the exception of PO Ming and PO Ahn) including Sgt. McCormick, as well as the patrol sergeant, Sgt. Terence McCabe and his operator PO John Marcantonio (Board Review 03). § 87(2)(b) identified PO Rohme (Sector K) as the officer with the revolver. PO Rohme has been with the NYPD for one year and does not carry a revolver. He identified PO Diaz who was assigned to Sector E as one of the officers that was on the right side but did not attribute specific allegations to him. He identified PO Marcantonio, who was the patrol sergeant's operator that day, as one of the initial officers that pointed a gun at him, who he originally identified in his statements as PO Jordan. PO Diaz was interviewed and confirmed that he canvassed during this incident but was not involved in § 87(2)(b)'s stop. Statements were also obtained from PO Austen, PO Boyle (sector K) and from PO Marcantonio. However, none recalled the incident although PO Austen and PO Boyle's memo books confirmed they responded to the gun run.

§ 87(2)(g)

Allegations not pleaded

- § 87(2)(g)

- § 87(2)(g)
- § 87(4-b) § 87(2)(g)

Allegation A- Force: PO Eric Jordan pointed his gun at § 87(2)(b)

Allegation B- Force: PO Dennis Jaeger pointed his gun at § 87(2)(b)

Allegation C – Abuse of Authority: PO Eric Jordan stopped § 87(2)(b)

Allegation D- Abuse of Authority: PO Dennis Jaeger stopped § 87(2)(b)

Prior to the stop of § 87(2)(b) a report of a man with a firearm was broadcast over police radio from an anonymous caller. The report noted that a 35-year-old Black male with a beard, wearing a black shirt, black pants, and a red scarf on his head was carrying a firearm in his waistband, and walking on Merrick Boulevard towards 110th Street (Board Review 02).

§ 87(2)(b) is a § 87(2)(b)-old male black, 5’8” tall, with black hair and brown eyes (Board Review 04), and he was wearing a black shirt with silver writing and a black vest over it, blue jeans, a red baseball cap, a blue and grey book bag, and a black chain, and blue and white headphones on. § 87(2)(b) was stopped at the corner of 110th Avenue (Brinkerhoff Avenue) and 172nd Street, which was three blocks from the originally reported location within 6 minutes of the gun run. Prior to the stop, § 87(2)(b) stated that he was simply walking with his hands at his side, and did not see the officers at all until he was ordered to “put his hands up.” § 87(2)(b) also denied making any movements to his waistband or pockets. § 87(2)(b) denied that any items in his pockets created a bulge of any kind.

It is undisputed that after officers interacted with § 87(2)(b) he was released without a summons or arrest, and the job was closed as unfounded (Board Review 02).

PO Jordan had no recollection of this incident and the gun run location from the Event report was listed in his memo book with no other details.

PO Jaeger stated that they arrived as back up at the stop location after § 87(2)(b) was being released by another sector and went over the radio to note that the individual was being released. PO Jaeger did not recall who the original sector was and had no interaction with § 87(2)(b).

As discussed in the subject officer identification section, PO Jordan and PO Jaeger were involved in the stop of § 87(2)(b) as listed in the Event Report, he provided PO Jordan’s name, which he obtained by viewing the nameplate and their vehicle number. § 87(2)(g)

An anonymous tip must bear standard indicia of reliability, in order to justify a police officer’s stop of a person. The tip must be reliable in its assertion of illegality, not just its tendency to identify a determinate person. *Florida v. J. L.*, 529 U.S. 266, (2000).

An officer can draw his firearm and point it another person so long as he has a reasonable fear for his own or another’s personal safety. *Police Department v. Gliner*, OATH Index No 955/00 (Sept. 6, 2000) (Board Review 06).

§ 87(2)(g)

Allegation E- Force: Officers pointed their guns at § 87(2)(b)

Allegation F- Abuse of Authority: Officers stopped § 87(2)(b)

Allegation G- Abuse of Authority: An officer searched § 87(2)(b) s bag.

Allegation H- Abuse of Authority: An officer searched § 87(2)(b)

As discussed in the Subject Officer Identification section, the investigation could not definitively identify the two or three additional officers that pointed their guns at § 87(2)(b) and the officer that searched § 87(2)(b) s pockets and bag.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Squad: 4

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date